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### NOTES OF CASES.

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**Vaccination of Pupils.**—As a defense to a prosecution for failure to send his son to school, a father pleaded a by-law of the board of education which prohibited pupils from attending public schools unless vaccinated. In affirming a judgment of conviction, the Court of Appeals of New York in *People v. Ekerold*, 105 Northeastern Reporter 670, said: "Our public school system has been developed with great pains and solicitude, and its maintenance and support have been recognized as so important for the welfare of the state that they have been provided for and safeguarded in the Constitution itself. As a part of this system, a statute has been passed requiring attendance at school of children within certain limits. \* \* \* Failure to comply with the statute ought not to be excused except for some good reason. It is perfectly evident that in a great city like New York, with its complex and varying conditions, regulations must be adopted for the purposes of preserving discipline, order, and health in the public schools. Some of these regulations would be so plain and essential that no reasonable person would think of disputing their validity or of making unwillingness to comply therewith a basis for not sending his children to school. The question which, within certain limits, is presented here, is whether the statute and the by-laws of the board of education in that city, adopted under and in accordance with the statute requiring vaccination as a condition of attending the public schools, are, under ordinary conditions, so unusual or oppressive that a parent should be allowed to make his unwillingness to comply therewith a basis for not sending his children to school, for that is what the present position of the defendant amounts to. I do not think that they are of such a character."

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**The Nervous Turkey and Phlegmatic Goose.**—The fact that geese were killed on a railroad track raises no presumption of negligence within a law making the killing of cattle or other live stock by a train prima facie evidence of negligence, as geese are not "live stock" within the statute. So held the Supreme Court of North Carolina in *James v. Atlantic Coast Line R. Co.*, 82 Southeastern Reporter, 1026. Nor did the fact that the whistle was not blown show negligence. The court in discussing the latter proposition said: "The plaintiff relies on the 'turkey case' (*Lewis v. Railroad*, 163 N. C. 33, 79 S. E. 283, 47 L. R. A. [N. S.] 1125). But the two cases are very dissimilar. In that case the evidence was that the turkeys could have been seen at a distance of 500 yards; there was quite a drove of them, and they were crossing the track. The turkey is a nervous fowl, and the jury might well have found that if the whistle had been blown the turkeys would have taken wing or have

run, and therefore we held that it was error to enter a nonsuit. Geese, however, are phlegmatic and slow of movement, and the blowing of the whistle or ringing the bell would not be calculated to make them run or fly. On the contrary, the approach of the train would be more likely to cause them to huddle up in conference or to stretch out their necks to oppose the passage of the engine. In the absence of evidence showing circumstances of actual negligence, the mere fact that the whistle was not blown or the bell rung did not authorize the court to submit the case to the jury. \* \* \* The difference between the characteristics of a turkey and of a goose is a matter of common knowledge. The turkey is long-legged quick of movement, and promptly responsive to a signal of danger. The goose is short-legged, slow to fly or run, and resentful rather than appreciative of a warning of danger. Though of equal intelligence probably with most other fowl, this has made its name a synonym for stupidity. While a turkey on the track would be likely to save itself by flight if the whistle were sounded in time, geese would be likely to put their heads together, or at most waddle down the track away from the noise. \* \* \* We are cited to the classic legend in Livy (Book xxv, c. 47) when Rome was saved by the cackling of the geese on the Capitol. A great painter has memorialized the scene. This, however, was not due to the alertness of these birds to flee danger, but to their well-known wakefulness at night. If the Gauls had blown their trumpets, the geese, instead of promptly getting out of the way, would simply have raised more clamor and hissed the warriors on both sides."

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**Nurse Inveigles Doctor into Marriage.**—This was an action to annul a marriage on the ground of mental incapacity of plaintiff caused by the administration of drugs by the defendant at the time of entering into the contract of marriage. Plaintiff was a physician 46 years of age and defendant a nurse 30 years of age. Plaintiff was troubled with insomnia, and had, at times, taken large quantities of drugs to overcome this, and at the time in question his nervous condition and his drug habit were greatly increased by the serious illness of his mother, to whom he was greatly devoted. On January 26, 1913, her condition became such as to cause him great mental worry. Up to this date plaintiff had met defendant only a few times, scarcely knowing her name, but on and after that date she visited his home every day and kept him at her sanitarium at night-time, giving him drugs and hot baths, as she says, to produce sleep. She kept him under her control until the 4th day of February the forenoon of which day they applied for a marriage license, which was refused on request of friends, who had plaintiff examined by physicians and found incompetent, through the effects of drugs, to enter into a marriage; but about 11:30 that evening they obtained